

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

RYDER TRUCK RENTALS, INC.
Respondent

Case No.: I-00-11145
I-00-10470

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 20 Chapter 9 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. 00-11145) served March 9, 2001, the Government charged Respondent Ryder Truck Rentals, Inc. with a violation of 20 DCMR 900.1 which prohibits, with certain exceptions, motor vehicles from idling their engines for more than three (3) minutes while parked, stopped or standing. The Notice of Infraction charged that Respondent violated 20 DCMR 900.1 on February 26, 2001 while parked in the 300 block of Morse Street, N.E., and sought a fine of \$500.

Because Respondent failed to answer the Notice of Infraction within the allotted twenty (20) calendar days from service (fifteen (15) days plus five (5) for service by mail pursuant to D.C. Official Code §§ 2-1802.02(e) and 2-1802.05), this administrative court issued an order

finding Respondent in default, assessing a statutory penalty of \$500 pursuant to D.C. Official Code § 2-1801.04(a)(2)(A) and requiring the Government to issue a second Notice of Infraction pursuant to D.C. Official Code § 2-1801.02(f). The Government served the second Notice of Infraction (No. 00-10470) on May 14, 2001.

On May 15, 2001, this administrative court received a payment (check #182025) in the amount of \$500 which, pursuant to D.C. Official Code § 2-1802.02(b), is construed as a plea of Admit to the charge set forth in the Notices of Infraction. Accordingly, this administrative court issued an order closing the matter with respect to Respondent's liability for the cited violation, but requiring Respondent to pay the outstanding \$500 statutory penalty or, in the alternative, request a reduction or suspension of the statutory penalty.

On July 18, 2001, this administrative court received a letter from Respondent dated June 1, 2001 representing that it had paid the fine on May 16, 2001, and requesting a reduction or suspension of the "penalty of \$1,000." By order dated July 26, 2001, this administrative court permitted the Government an opportunity to respond to Respondent's request within ten (10) calendar days of the order's service date. No response was submitted by the Government. Accordingly, this matter is now ripe for decision.

II. Findings of Fact

1. By its plea of Admit, Respondent Ryder Truck Rentals, Inc. has admitted violating 20 DCMR 900.1 on February 26, 2001 in the 300 block of Morse Street, N.E.
2. On February 26, 2001, Respondent idled the engine of its truck for more than three (3) minutes while parked in the 300 block of Morse Street, N.E.
3. Respondent did not answer Notice of Infraction (00-11145) within twenty (20) calendar days of the Notice's March 9, 2001 service date, *i.e.*, on or before March 29, 2001. Respondent did, however, submit a check (#182025) in the amount of \$500 to the Office of Adjudication and Hearings Clerk's Office on May 15, 2001.
4. There is nothing in the record to explain Respondent's failure to timely answer the first Notice of Infraction (00-11145).

III. Conclusions of Law

1. Respondent violated 20 DCMR 900.1 on February 26, 2001 in the 300 block of Morse Street, N.E. A fine of \$500 is authorized for a first offense of this violation which Respondent paid in full on May 15, 2001 by check # 182025. 16 DCMR §§ 3201.1(b)(1) and 3224.3(aaa).
2. Respondent has requested a reduction or suspension of the assessed \$500 statutory penalty. If a respondent fails without good cause to answer a Notice of Infraction within the allotted time period (fifteen (15) days from service plus five

(5) days for mailing pursuant to D.C. Official Code §§ 2-1802.02(c), 2-1802.05), a statutory penalty equal to the amount of the fine shall be assessed. D.C. Official Code § 2-1801.04(a)(2)(A).

3. Respondent did not answer Notice of Infraction (00-11145) within twenty (20) calendar days of the Notice's March 9, 2001 service date. D.C. Official Code §§ 2-1802.02(e) and 2-1802.05. Instead, Respondent submitted a \$500 payment some two months later, which, pursuant to D.C. Official Code § 2-1802.02(b), is properly construed as a plea of Admit. Moreover, Respondent has offered no explanation for its untimely plea. Accordingly, Respondent has failed to demonstrate good cause for failing to timely answer Notice of Infraction (00-11145), and the previously assessed statutory penalty of \$500 shall therefore be imposed without reduction. D.C. Official Code § 2-1802.02(f).

IV. Order

Based upon the foregoing findings of fact and conclusions of law, and the entire record of this case, it is, hereby, this ____ day of _____, 2002:

ORDERED, that Notice of Infraction (00-10470) is hereby **DISMISSED AS MOOT**; and it is further

ORDERED, that Respondent shall pay a statutory penalty for failing to timely respond to Notice of Infraction (00-11145) in the total amount of **FIVE HUNDRED DOLLARS (\$500)** in

accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real or personal property owned by Respondent pursuant to D.C. Official Code § 2-1802.03(i) and the sealing of Respondent's business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7).

/s/ **03/25/02**

Mark D. Poindexter
Administrative Judge